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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/798,771	03/12/2004	Andre Langevin		6404

7590 07/15/2005

INVENTARIUM
SUITE 1607
4050 ROSEMONT BLVD.
MONTREAL, QC H1X1M4
CANADA

EXAMINER

HE, AMY

ART UNIT	PAPER NUMBER
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2858

DATE MAILED: 07/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/798,771	Applicant(s) LANGEVIN, ANDRE	
	Examiner Amy He	Art Unit 2858	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 July 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) 4 and 5 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on March 12, 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>3/12/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Applicant's election of species I in the reply filed on July 7, 2005 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).
2. Claims 4-5 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species II.
3. Applicant is reminded to cancel claims 4-5 drawn to the nonelected species.

Specification

4. The disclosure is objected to because of the following informalities:
 - (1) Page 3, line 12, delete "being" before "allowing".
 - (2) Page 5, line 5, the referenced number 36 is inconsistent with that depicted in the drawing. Replace (36) with --(38)--.
 - (3) Page 5, lines 16 and 18, the referenced number (40) is inconsistent with that depicted in the drawing. Replace (40) with --(36)--.

Appropriate corrections are required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1 and 3 are rejected under 35 U.S.C. 102(b) as being anticipated by Burke et al. (U. S. Patent No. 3, 551, 807).

Referring to claims 1, Burke discloses a metering device (in Figures 1-3) comprising:

a plurality of probes (see the two probes 10 as shown in Figure 1) each having a body comprised of four faces on their long side;

an attachment groove (the groove for receiving the clamping screw 38 as shown in Figure 1) situated on one of the four faces for attachment to a clamp jaw (clamp screw 38);

a lead passageway for passing a lead (24 in Figure 1) therethrough;

at least one mechanical fastener (the combination of screws 66, 70, 62 and 58) passing through said face so as to fixedly attach a metal contact (probe tip 52 as shown in Figures 1 and 2) situated on an opposite face as well as fixedly attaching said lead 24);

a bar clamp (the combination of bar 12 with clamp screw 38 can be considered as a bar clamp for clamping or securing the probe onto the supporting member 12)

having jaws (clamp screw 38) and over which jaws are slid said attachment grooves(the groove for receiving the clamping screw 38 as shown in Figure 1) from said probes (10).

Note that the recitation of "a resistance metering device... with two leads providing direct current and two leads serving to measure a voltage with a voltmeter from which a resistance is deducted "has not been given patentable weight because the recitation occurs in the preamble. A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. See *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951).

Referring to claim 3, Burke discloses that the metal contacts (52) are bar shaped.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Burke et al. (U. S. Patent No. 3, 551, 807).

Referring to claim 2, Burke discloses the resistance metering device as in claim 1. Burke does not specifically disclose that the metal contacts are crescent shaped. It would have been obvious to a person of ordinary skill in the art at the time the invention

was made to modify Burke to use metal contacts of different shapes, such as a crescent shape, for the purpose of better conforming to differently shaped contact of the device under test, since it has been held that changing the form/shape of an invention involves only routine skill in the art. *In re Dailey*, 149 USPQ 47 (CCPA 1976).

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Liebermann (U. S. Patent No. 3, 840, 808) discloses an electrical measuring device including a clamp-on ammeter and probes for measuring resistance/voltage. The probe is attached to a clamp on jaw.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Amy He whose telephone number is (571) 272-2230. The examiner can normally be reached on 8:30am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eddie Lefkowitz can be reached on 571-272-2180. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2858

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

AH *ah*
July 13, 2005.

Anjan Deb
ANJAN DEB
PRIMARY EXAMINER